

**FILED**

JUN 19 2008

UNITED STATES COURT OF APPEALS

**FILED**

JUN 16 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

EUGENE DARREL RUTLEDGE,

Plaintiff - Appellant,

v.

ALAMEDA COUNTY SUPERIOR  
COURT; et al.,

Defendants - Appellees.

No. 08-15126

D.C. No. CV-07-04093-CRB  
Northern District of California,  
San Francisco

ORDER

On May 13, 2008, this court ordered appellant, within 21 days, to pay the filing fees and show cause why the judgment in this appeal should not be summarily affirmed. The order warned appellant that failure to pay the fees and to show cause would result in the automatic dismissal of the appeal by the Clerk of the Court. To date, appellant has filed a request that his appeal be "denied without prejudice" because he is currently unable to pay the filing fee, but appellant has not complied with the court's order. Accordingly, this appeal is dismissed for failure to prosecute. *See* 9th Cir. R. 42-1.

KW/MOATT

This order served on the district court shall act as and for the mandate of this court.

FOR THE COURT:

Molly Dwyer  
Clerk of Court

By: Kathryn E. White  
Motions Attorney/Deputy Clerk  
9th Cir. R. 27-7  
General Orders/Appendix A